MONTANA LEGISLATIVE BRANCH

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DRAFT
Minutes
HJR 1 Subcommittee

November 28, 2001
Helena, Montana

The second meeting of the House Joint Resolution (HJR 1) Subcommittee was called to order by **Senator Bob Keenan**, Chairman, on November 28, 2001 at 8:00 a.m., in Room 102 of the Capitol Building. The following members were present:

Senator Keenan, Chairman
Senator Pease
Senator Cobb
Senator Stonington
Senator Franklin
Representative Price
Representative Jayne
Representative E. Clark

Approval of Minutes

Senator Cobb moved that the minutes of the September 17 and 18, 2001, meeting be approved as presented. The motion carried unanimously.

Panel Discussion of Board of Visitors Review of Montana State Hospital

Participants of the panel were: **Senator Bob Keenan**, Moderator; **Gene Haire,** Executive Director, Mental Disabilities Board of Visitors (MDBOV); Ed Amberg, Director, Montana State Hospital (MSH).

Mr. Haire distributed a handout explaining the basic facts of the Mental Disabilities Board of Visitors (Exhibit 1). The Board was created in 1975 in conjunction with the passage of the Mental Commitment and Treatment Act and the Developmental Disabilities Act. The Board consists of six members appointed by the Governor to ensure that the treatment provided in Montana's public health system is humane, is consistent with established clinical and other professional standards, and meets the standards set by state law. The Board retains the services of a number of consultants from a variety of professional backgrounds to assist in its inspections of mental health and residential facilities.

Mr. Haire discussed the outline of the site review of the MSH conducted in June 2001 (Exhibit 2). The review was the third site review the Board had done since 1998. Included in the review were 12 positive improvements the MSH has made toward providing excellent service to patients. In the 1998 and 1999 site reviews there were several primary themes of concern relative to the quality of patient care and treatment that are concerns in the 2001 review as well.

Mr. Amberg distributed a handout describing regulations of hospitals (Exhibit 3). Along with the federal agencies there are also a number of state agencies that regulate the hospital. Each layer of regulation adds additional costs and workload. All of the regulatory bodies have standards that have to be followed.

A 15-member team consisting of: 2 pharmacists; a nutritionist; a consumer; staff from community mental health centers; board members; and board staff visited the MSH. The team did not include psychiatrists or anyone with experience providing inpatient mental health services. The hospital staff has concerns about the conclusions and recommendations made by the board, specifically, recommendations regarding medications and prescribing practices, and treatment approaches. Mr. Amberg listed the following questions that need to be addressed regarding the site review process.

1) What should be the Boards authority?
2) What type of review process is appropriate and necessary?
3) To what extent should health care standards be used to guide the review process?
4) What level of expertise should reviewers have?
5) To whom is the board accountable?
6) How much regulation and oversight of inpatient treatment programs is necessary and appropriate?

Senator Cobb asked if changes would be made to the draft report. Mr. Haire stated that based on conversations with the hospital, the board will remove references to specific staff positions, correct factual errors and rework some of the observations and recommendations. The report will be reviewed and submitted to the MSH. The hospital's response will become an appendix to the final published report.

Senator Keenan stated that the draft report is a public document and will be copied for the committee.

Senator Stonington requested time to discuss the questions Mr. Amberg mentioned so the committee will be able to decide whether SB 473 needs revising.

Mr. Haire stated the MDBOV would also be interested in having a meeting with the committee to discuss SB 473.

State Funded Public Mental Health Services

Lois Steinbeck, Senior Fiscal Analyst, Legislative Fiscal Division (LFD), distributed a summary (Exhibit 4) of the State Public Mental Health report (Exhibit 5). The report focuses on how much the Addictive and Mental Disorders Division (AMDD) is budgeted for mental health services. Table 1 shows the appropriation for mental health services by major source and fund type for fiscal 2002. Medicaid accounts for almost 60 percent of the budget. Mental Health Services Plan (MHSP), MSH and Montana Mental Health Nursing Care Center (MMHNCC) are the other significant components. The majority of the budget is for direct services and Medicaid eligible people.

There are 35 separate types of Medicaid eligibility and eligibility is based on income and resources and categorical eligibility. The federal government establishes income limits by certain types of eligibility but states can disregard those income limits, thereby making more people eligible. Table 2 shows various poverty level incomes by family size. Medicaid services are the most comprehensive services of all the mental health services offered. Table 4 shows what benefits are available under each type of funding source. Once a state opts into Medicaid there are certain mandatory services that must be offered; hospital, physician, nursing home, and well child services. Some services such as prescription drugs and most mental health services are optional under Medicaid. There are federal regulations a state must meet which could have an impact on the new regional system. States must submit a waiver of federal regulations if it wishes to change services or access to services in a way that is contrary to federal rule. Waivers allow flexibility of program design but the process can be time consuming, both to develop

programs and administer the waiver. Waivers must also be cost neutral to the federal government. Table 3 shows estimated enrollment compared to current enrollment in capped programs.

Oversight issues

September FY2002 Budget Status Report (Exhibit 6) - The Department is projecting a $4.5 million general fund deficit. The DPHHS is currently conducting a comprehensive review of options to eliminate the deficit.

An issue not addressed in the budget report pertaining to Child Support Enforcement Division (CSED) has the potential to increase the state cost overrun. Pat Gervais, Associate Fiscal Analyst, LFD, reported that the CSED recently became aware of a variance in the federal incentive funds. The CSED is funded predominately with federal funds and state special revenue, which is generated through the federal incentive grants and retained collections of child support. The 2001 Legislative Session projected federal incentive funds would increase to approximately $3.0 million per year. Under the new federal incentive program the actual recovery will be about $1.0 million per year resulting in approximately $4.0 million shortfall in the state special revenue. The total division budget is $19.5 million. The loss of $4.0 million is approximately a 20 percent reduction in the division. The final federal regulations on the new child support incentive grant were not published until January or February of 2001. The estimates were based upon proposed federal regulation and the department was not aware of how federal funds would be allocated. The final federal calculation matches state incentives to the incentives earned by all states to determine the portion to be allocated.

Mental Health Budget Update (Exhibit 7) - The report discusses early signs of potential deficits in several programs, including mental health Medicaid and the MHSP. There are also projected deficits in the MSH and MMHNCC budgets. The state hospital census has consistently run above the budgeted population.

AMDD FY 2002 Budget Projections (Exhibit 8 2001). Mr. Chappius briefly discussed the budget for each Division. The DPHHS has already made utilization changes, reduced the

provider rate increases, and reduced reimbursement to out of state hospitals. Exhibit 8a is an update of program changes, the implementation date, and general fund savings provided by Mr. Anderson.

AMDD Positions (Exhibit 9) - Most of the positions authorized in the 2001 session are in the process of being filled with the exception of the Community and Law Enforcement Trainer position that may not be hired.

Response letter from Greg Petesch to Senator Cobb (Exhibit 10) – The letter is in regards to the procedure to be used by the DPHHS for awarding grants to local children's mental health providers under the mental health services plan in order to prevent the placement of children in out-of-home services. Mr. Petesch also addressed whether federal procurement law would require a competitive bidding process if federal funds were involved in the grant funds.

Chuck Swysgood, Director, OPBB, stated that the budget office is aware of the potential problems and they are working with DPHHS to address the shortfall. He also stated there may not be money in the budget to take care of supplementals given all the factors facing the economy now.

Mental Health Ombudsman (Exhibits 11 & 11a) – Ms. Adee briefly reviewed the annual report to the Governor. The report covers data that has been collected for FY 2001, which shows that access to mental health care is the prominent issue. Nearly 50 percent of all people contacting the Ombudsman had a problem accessing mental health care. Complaints about providers or about the system are the next most frequent reason people contact the Ombudsman's Office. Based on the data received during the past fiscal year, the Ombudsman made the following recommendations to the legislature and the Governor's Office:

- ?? Increase access to mental health care for all children.
- ?? Maintain a pharmacy benefit.
- ?? Develop more community services with proven effectiveness.
- ?? Find more ways to divert persons with serious mental illness away from the criminal justice system.

Panel Discussion of VA Mental Health and Chemical Dependency Services

Sheri Heffelfinger, Research Analyst, LSD, gave a presentation on building access for mentally disabled veterans. The presentation provided information on veterans, bureaucracies and as a state are we handicapped accessible. A copy of the presentation is attached (Exhibit 12).

Members of the panel were **Dr. Foster**, Psy.D.; **Teresa Schopp**, Widow of PTSD Veteran; **Bob Ross**, Director, Mental Health Center, Billings; **Carroll Jenkins**, LCSW,CCDC; and **Pete Formaz**, CCDC.

Dr. Foster, explained that when PTSD first emerged it was an unpopular diagnosis and shame was associated with the disorder. PTSD is a condition that is often a co diagnosis that can be kindled by stress factors and if you had PTSD you were told it was because you already were a problem usually of a sociopathic sort. PTSD causes physiologic and neuro-chemical changes. Many veterans with PTSD can live gainful lives. The state of Washington has integrated outreach for mentally affected veterans and their families.

Teresa Schopp's husband was a veteran suffering with PTSD and diabetes. Mr. Schopp fought with the VA system for many years and became frustrated and angry. When his pain became unbearable Mr. Schopp committed suicide. Attached is a copy of her testimony (Exhibit 14)

Carroll Jenkins commented that just recently the VA has been contracting out to community providers to provide mental health services. The VA hospital does not provide a continuum of care or make an effort to provide a continuum for mentally ill veterans. In mental illness the whole family can be affected but only the veteran gets treated. There doesn't appear to be an understanding of dual diagnosis and some people are judged by society and providers for having a dual diagnosis. Veterans medicating their PTSD with alcohol are considered alcoholic and are not entitled to benefits. The VA center has not been a partner in the community regarding mental illness or physical illness for years.

Senator Stonington asked what the subcommittee can do to put pressure on the federal government. Ms. Heffelfinger stated that the committee could pass resolutions, request legislation be passed and partner with the congressional delegation to sponsor legislation.

Bob Ross, talked about services at the Billings Mental Health Center. Prior to April 1 their experience with the VA system has been absent in terms of mental health care with the exclusion of one contract. The Billings Mental Health Center has had a five-year contract with the VA Center to provide counseling to PTSD veterans. This was a counseling service provided to veterans living farther than 50 miles from Billings. In May the Billings Mental Health Center signed a contract with Fort Harrison to provide intensive case management to referrals from Fort Harrison and in August a contract was signed to provide psychiatric services for the eastern part of the state.

Pete Formaz operates an outpatient chemical dependency office in Helena. Many PTSD veterans medicate themselves with drugs and alcohol and there are no chemical dependency treatment facilities for veterans in the state of Montana. Chemical dependency treatment needs to be very intense. Many cases require medical supervision in a hospital. Veterans have an exceedingly difficult time trying to get authorization for any kind of chemical dependency treatment.

Jim Jacobson, Administrator, Montana Veterans' Affairs Division, reported that the federal element of the Montana Veterans' Affairs Division is to provide health care, benefits and cemetery administration system. The state level of the Montana Veterans' Affairs Division is charged with providing benefits and administering the cemetery system. The Montana Veterans Affairs Division has eight offices in Montana; each has a regional responsibility to visit every county in the state of Montana to provide veterans service support to veterans and family members. The VSO (Veterans Service Officer) follows the claim process to Fort Harrison and helps the veteran get enrolled into the system. A claim can have several items attached to it and there are several issues with each individual claim. Certain portions of the claim can be approved and some may be denied. It is very difficult to track the claims because of the variety and dept. There are two state veterans cemeteries one in Helena and a new one in Miles City, which was financed by veterans' license plates sales and donations.

Mike Secrese, VSO, explained that many veterans go through treatment programs or see counselors for help before they approach the VA with a claim. Consistently when a claim is filed it takes 6 to 8 months for the claim to get to the desk of a reader. The reader requests a compensation and pension examination regardless of how much medical information is in the file, which backs the claim up another 2 to 3 months while they wait for the examination to be scheduled. The fastest a claim has gone through is about 1 year and that would be a simple claim.

Public Comment

Representatives from various associations offered comments to the committee regarding discharge planning from the MSH, curriculum for law enforcement training and mental health courts. Comments were received from: Kathy McGowan; Executive Director, Montana Council of Community Mental Health Centers; and Sally Johnson, Administrator, Health and Treatment, DOC.

SB 454

Dan Anderson gave a brief overview of the report from DPHHS to the HJR 1 Interim Committee (Exhibit 15). The Multi-agency Children's Committee (MCC) has met three times to date with the fourth meeting scheduled for December 7. At its first meeting the MCC defined the target population of multi-agency high-cost SED youth and steps for identifying and developing a provider network. The MCC selected three communities to work with to develop a local process to cooperatively serve the youth on the list. The MCI has begun holding meetings in the target communities. The three communities are Missoula, Great Falls and Billings. A Memorandum of Understanding (MOU) will be reviewed at the December 7 MCC meeting.

There are no recommendations at this time from the MHOAC. The children's task group of the MHOAC staffed by the consensus council will develop a recommendation for review by the MHOAC planning committee and the full committee. The charge is to suggest a revision to the "service area authority" planning guidelines document that acknowledges and integrates SB 454 into the plan. There is concern that the regional system development will disrupt the SB 454 groups planning. The recommendation will clarify how services will differ for children and adults.

Senator Stonington requested that time be scheduled for regular updates on the regional service area planning.

Direction to Staff

The following is the information requested from the subcommittee at this meeting:

? ? Budget status report update from the DPHHS and AMDD
? ? List of budget reductions under consideration
? ? Agencies track data from all their expenditures on the list of high-cost children
? ? Add regular update on the regional service area planning
? ? Amount of money being spent for veterans at the MSH and the MHSP
? ? Look at MDBOV role and the site review report
? ? Detailed explanation of the MDBOV budget
? ? Mental Health Advocacy Program (MAP) budget

Next HJR 1 Subcommittee Meeting

February 7 in Helena and February 8 at MSH.

A copy of the PACT Program Report for FY 2000 was distributed to the subcommittee (Exhibit 16).

Adjournment

Meeting adjourned at 4:45 p.m.

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Sen. Bob Keenan, Chairman

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Diane McDuffie, Committee Secretary